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OFFICE OF PETITIONS

In re Application of :
Fayyad et al. :
Application No. 09/401,439 :
Filed: September 22, 1999 :
Attorney Docket No. 115377.01 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 30, 2005, to revive the above-identified application.

The petition is **GRANTED**.


This application became abandoned for failure to timely reply to the non-final Office action mailed November 17, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on February 18, 2005. A Notice of Abandonment was mailed June 10, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment under 37 CFR 1.111; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply has been accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$1020.00 extension of time fee submitted with the petition on September 30, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.


Liana Chase
Petitions Examiner
Office of Petitions